IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 416 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

SUBEDAR UJJANSINGH RAJPUT

Versus

RATILAL RAMLAL SHAH

Appearance:

NOTICE UNSERVED for Petitioner

NOTICE SERVED for Respondent No. 1

MR AJ DESAI APP for Respondent No. 2

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 30/06/2000

C.A.V. JUDGEMENT

Heard the learned counsel for the respondent. It appears from the record that notice was ordered to be issued to the petitioner by order dated 10.2.2000 and the

same has been returned unserved with a remark that the petitioner has expired and his death certificate is also enclosed with the unserved notice.

2. This revision under Section 397 of the Cr.P.C. seeks to challenge the order acquitting the respondent from the charges of offences under Sections 323, 325 and 504 of the Indian Penal Code. The present petitioner, who is the original complainant, has failed to prove his version of the events by leading any corroborative evidence and his own testimony was not believed in absence of any medical evidence of the injuries. Accordingly, the alleged offences having not been proved beyond reasonable doubt, the respondent has been acquitted by the impugned order dated 30.11.1990. It is alleged in the petition that the charge was framed on 6.10.1988 and the complainant was examined on 12.10.1989. Thereafter, the prosecution ought to have been given a fair chance to lead further evidence and examine the other important witnesses. It appears from the Rojkam of the original Criminal Case No.2960 of 1988 that it was adjourned for a number of times due to strike of the lawyers. However, on and after 11.9.1990, the case was adjourned for three times on account of absence of the witnesses. Ultimately, the application dated 27.11.1990 for adjournment on the ground of absence of the witnesses was rejected and the impugned judgment and order was passed. In these circumstances, there does not appear to be sufficient reasons to interfere with or set aside the impugned order. The petition is, therefore, rejected. Rule is discharged with no order as to costs.

Sd/-

(KMG Thilake)

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